

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

TSURT, LLC,

Plaintiff,

v.

VARIOUS JOHN DOES, VARIOUS JANE
DOES AND XYZ COMPANY,

Defendants.

NO. 2:18-cv-1119

~~PROPOSED~~ ORDER GRANTING
TEMPORARY RESTRAINING
ORDER; SEIZURE ORDER; AND
ORDER TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION AND
SEIZURE ORDER SHOULD NOT
ISSUE

Based upon the Complaint, the Motion, the Declaration of Christopher Siglin and the Certificate of Counsel and all other pleadings and proceedings heretofore had herein and good cause being shown:

IT IS HEREBY ORDERED that defendants Various John Does, Various Jane Does and XYZ Company their true identities being unknown (collectively "Defendants") show cause before the Honorable James L. Robart, United States District Judge, in Courtroom 14106 of the United States District Court for the Western District of Washington, located at 700 Stewart Street, Seattle, Washington, 98101 at 9:00^a m. on August 16, 2018 ~~or as soon~~ ~~thereafter as counsel can be heard~~, why an order pursuant to Fed. R. Civ. P. Rule 65, the Lanham

Order Granting TRO, SO and OSC re PI & SO- 1
No. 2:18-cv-1119

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1 Act 15 U.S.C. § 1051 et. seq., and the All Writs Act should not be entered granting to Plaintiff
2 TSURT, LLC ("Plaintiff") a preliminary injunction to enjoin the Defendants from
3 manufacturing, distributing, selling or holding for sale, any clothing, jewelry, photographs,
4 posters and other merchandise (collectively the "Infringing Merchandise") and to seize the same
5 bearing the federally registered trademarks, service marks, likenesses, logos and other indicia of
6 the Group "PEARL JAM" (collectively, the "Group's Trademarks").
7

8 **AND IT APPEARING TO THE COURT** that Defendants are selling or are about to
9 sell and distribute the Infringing Merchandise bearing any or all of the Group's Trademarks as
10 set forth in Plaintiff's Complaint and Declaration, and will continue to carry out such acts unless
11 restrained by order of the Court;
12

13 **AND IT APPEARING TO THE COURT** that immediate and irreparable injury, loss
14 or damage will result to the Plaintiff before Defendants can be identified and given notice and
15 their attorneys can be heard in opposition to the granting of the temporary restraining order, in
16 that the Defendants are preparing to manufacture, distribute and sell Infringing Merchandise as
17 set forth in the Plaintiff's Complaint, and that unless said Defendants are enjoined from said
18 manufacture, distribution, and sale, the Plaintiff will suffer immediate and irreparable injury and
19 harm in the form of a loss of income, lessening and dilution the value of the Group's Trademarks,
20 interference with Plaintiff's ability to exploit, market and license its merchandising rights,
21 confusion in the marketplace as to the duly authorized source of merchandise depicting the
22 Group's Trademarks, and impairment of the good will Plaintiff and its licensors have in the said
23 Group's Trademarks;
24

25 **IT IS FURTHER ORDERED** that pending hearing and determination of this
26 application, or the expiration of fourteen (14) court days from the date hereof, the Defendants,
27

1 their agents, servants, employees, attorneys, successors and assigns and all persons, firms and
2 corporations acting in concert with them, and each of them, be and hereby are temporarily
3 restrained from manufacturing, distributing and selling Infringing Merchandise bearing any or
4 all of the Group's Trademarks;

5
6 **AND IT IS FURTHER ORDERED** that the United States Marshal for this District or
7 any district in which Plaintiff enforces this order, the state police, local police or local deputy
8 sheriffs, off duty officers of the same, and any person acting under their supervision, are hereby
9 authorized to seize and impound any and all Infringing Merchandise bearing any or all of the
10 Group's Trademarks including PEARL JAM and/or designs



11 and

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16 which Defendants attempt to sell or are holding for sale, including any from any carton, container,
17 vehicle, or other means of carriage in which the Infringing Merchandise is found from three (3)
18 days before to one (1) day after any performance of the tour within a three (3) mile vicinity of
19 the halls, stadiums or arenas at which said tour shall be performing, including but not limited to
20 in connection with the concerts to be held at the Safeco Field in Seattle, Washington on August
21 8 and August 10, 2018;

22
23 **AND IT IS FURTHER ORDERED** that this order be and is hereby conditioned upon
24 Plaintiff's filing with the Clerk of this Court an undertaking in the form of a bond, certified check,
25 or cash in the amount of \$5,000.00 no later than August 6, 2018, ^{at 4:00 p.m.} to secure the payment of
26
27

1 such costs and damages not to exceed such sum as may be suffered or sustained by any party
2 who is found to be wrongfully restrained hereby;

3 **AND IT IS FURTHER ORDERED** that this temporary restraining order is conditioned
4 upon the Plaintiff's advancing to the law enforcement officers such sum as is required by the
5 same to cover the fees for their said services, in the event Plaintiff seeks their services in this or
6 any other district;

7 **AND IT IS FURTHER ORDERED** that service of a copy of this order to show cause
8 together with the complaint upon which it is based, be made upon the Defendants by the United
9 States Marshal, state or local police, local deputy sheriffs or by any person over the age of
10 eighteen (18) years not a party to this action selected for that purpose by the Plaintiff, at the time
11 of the seizure provided herein is effected and that such service shall be deemed good and
12 sufficient;

13 **AND IT IS FURTHER ORDERED** that the process server shall offer a receipt to each
14 person from whom Infringing Merchandise is seized and that the Plaintiff shall be deemed
15 substitute custodian for all Infringing Merchandise seized;

16 **AND IT IS FURTHER ORDERED** that each and every defendant served with a copy
17 of this order promptly, courteously and peaceably identify himself or herself to the
18 aforementioned process server and that the process server or agents for Plaintiff be allowed to
19 photograph, video tape or otherwise identify the Defendant;

20 **AND IT IS FURTHER ORDERED** that Defendants' responsive papers, if any, shall be
21 filed with the Clerk of this Court and served upon the attorneys for Plaintiff by delivering copies
22 to its counsel on or before August 13 2018. Any reply shall be filed by the Plaintiff and
23 *Plaintiff must provide the court with*
24 *a*
25 *declaration*
26 *as described*
27 *in Dkt. #*
4, # 17
no later
than
August 13,
2018, and

1 served upon each appearing defendant or his/her counsel on or before August 15, 2018. JLR

2 Plaintiff is to provide copies of all other filed pleadings at the request of any identified defendant;

3 **AND IT IS FURTHER ORDERED** that pursuant to F.R.C.P. Rule 65 (d), any defendant
4 can apply to this Court for modification/dissolution of this Order on two (2) days' notice or
5 shorter notice as this Court may allow, but no such application shall serve to suspend this Order
6 or stay the terms herein unless otherwise ordered by this Court.
7

8 **IT IS SO ORDERED.**

9 Dated: 2 Aug., 2018

10 At: 9:23 a.m.


THE HONORABLE
UNITED STATES DISTRICT JUDGE

11 Presented By:

12 **SAVITT BRUCE & WILLEY LLP**

13 By: /s/ James P. Savitt

14 By: /s/ Michele L. Stephen

15 James P. Savitt, WSBA #16847

16 Michele L. Stephen, WSBA #39458

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24 Attorneys for TSURT, LLC
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